



The parties' application is DENIED. The parties shall submit a joint Proposed Civil Case Management Plan and Scheduling Order and joint letter by **April 1, 2021**, in accordance with the Order dated January 26, 2021 (Dkt. No. 29).

**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

**SO ORDERED.**

*86 Chambers Street  
New York, New York 10007*

**Dated: March 31, 2021  
New York, NY**

**BY ECF**

The Honorable Lorna G. Schofield  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007

**LORNA G. SCHOFIELD  
UNITED STATES DISTRICT JUDGE**

Re: *Tzumi Innovations, LLC v. Regan, et al.* No. 21 Civ. 122 (LGS)<sup>1</sup>

Dear Judge Schofield:

This Office represents Defendants Michael S. Regan, in his official capacity as Administrator of the United States Environmental Protection Agency ("EPA") and the EPA in the above-captioned matter (together, the "Government"). I write respectfully, on behalf of all parties, to jointly request that the Court adjourn the initial pre-trial conference scheduled in this matter for April 8, 2021, at 10:50 am, and correspondingly extend the time to file the pre-conference submission due on April 1, 2021, until after the Court decides Plaintiff's motion for a preliminary injunction and the Government's motion to dismiss Plaintiff's Amended Complaint. *See* ECF Nos. 23-24, 27, 31-42.

An adjournment of the initial pre-trial conference is appropriate, as the Court's decision regarding Plaintiff's preliminary injunction motion and the Government's motion to dismiss will inform the path forward for this case, including what issues, if any, will be addressed in the action. Further, a preliminary conference with the Court was already held in this case on January 14, 2021. *See* ECF Nos. 25-26. Moreover, because this is a matter involving a review from an administrative agency, it is exempted from the mandatory scheduling order required by Fed. R. Civ. P. 16(b). *See* SDNY Local Rule 16.1 ("Matters involving . . . reviews from administrative agencies are exempted from the mandatory scheduling order required by Fed. R. Civ. P. 16(b).").

This is the parties' first request for an adjournment of the initial conference.

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<sup>1</sup> Michael S. Regan, who became the Administrator of the Environmental Protection Agency on March 11, 2021, is automatically substituted for former Administrator Andrew R. Wheeler as the defendant in this action. *See* Fed. R. Civ. P. 25(d).

The Honorable Lorna G. Schofield

March 30, 2021

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Respectfully submitted,

AUDREY STRAUSS

United States Attorney for the  
Southern District of New York

By: /s/ Allison M. Rovner  
ALLISON M. ROVNER  
Assistant United States Attorney  
86 Chambers Street, Third Floor  
New York, New York 10007  
Tel.: (212) 637-2691  
Email: Allison.Rovner@usdoj.gov

cc: Counsel of Record (by ECF)